

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

NATHAN EARL WINGO,

Plaintiff,

v.

CO WILLIAMS and CO GAINES,

Defendants.

Case No. 18-CV-1148-JPS

ORDER

Plaintiff, Nathan Earl Wingo (“Wingo”), filed his complaint in this case on July 25, 2018. (Docket #1). He is currently incarcerated at the Milwaukee County Jail. Upon screening, the Court allowed Wingo to proceed on an Eighth Amendment claim for excessive force against Defendants CO Williams (“Williams”) and CO Gaines (“Gaines”). (Docket #7). The Court entered a scheduling order in this action on October 17, 2018, setting a discovery deadline of April 5, 2019 and a dispositive motion deadline of May 1, 2019. (Docket #11 at 2–3).

On April 5, 2019, the defendants filed a motion pursuant to Federal Rules of Civil Procedure 37(b) and 41(b) requesting that the Court dismiss Wingo’s complaint for failure to prosecute, or, alternatively, to stay the dispositive motion deadline and compel Wingo to participate in discovery. (Docket #13). According to Defendants, they timely served Wingo with a notice of deposition for March 27, 2019. *Id.* at 2. The deposition commenced on that day, but at the deposition Wingo claimed not to have received the notice and refused to participate in the deposition without assistance of counsel. *Id.* According to the Milwaukee County Jail logs, Defendants’

discovery requests and notice of deposition were in fact delivered to Wingo. *Id.* Defendants further aver that Wingo has not responded to their written discovery and has not otherwise contacted defense counsel. *Id.*

The time for Wingo to respond to Defendants' motion to dismiss for failure to prosecute has come and gone, and he has not filed anything. The Court has heard nothing from Wingo since the complaint was screened.

The Court will order that Wingo respond to all outstanding discovery and file a response to the pending motion to dismiss for failure to prosecute within ten (10) days of the entry of this Order. His failure to do so will result in dismissal of this action in its entirety without further notice. *See* Fed. R. Civ. P. 37, 41(b). The Court will also stay the dispositive motion deadline in this case, and will re-set the deadline if necessary after Wingo makes the submissions required of him in this Order.

Wingo is further advised that as a civil litigant, he has no automatic right to counsel in this action, and therefore his refusal to participate in discovery without a lawyer will not be tolerated.

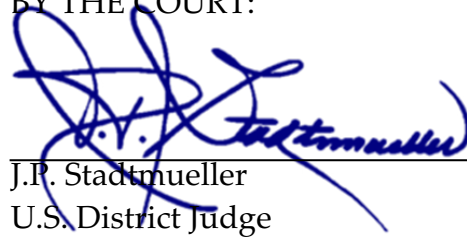
Accordingly,

IT IS ORDERED that within ten (10) days of the entry of this Order, plaintiff Nathan Earl Wingo shall answer all outstanding discovery, notify the Court that he has done so, and file a response to the pending motion to dismiss filed by the defendants. Failure to comply with this Order will result in dismissal of this case; and

IT IS FURTHER ORDERED that the dispositive motion deadline of May 1, 2019 (Docket #11) be and the same is hereby **STAYED** until further order of the Court.

Dated at Milwaukee, Wisconsin, this 1st day of May, 2019.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized with loops and flourishes.

J.P. Stadtmueller
U.S. District Judge